

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
(Civil Appellate Jurisdiction)

CIVIL APPLICATION (S) NO. 1595 OF 2009
IN
SECOND APPEAL ST. NO.8363/2009

(Baban Ganpat Warpe since deceased thr L.H
Annasaheb Baban Warpe and ors
vrs,
Smt. Hirabai Sahankar Kanchan & ors)

Mr. Vivek Salunkhe, Advocate for Applicants/ appellants
Mr. S.V.Khaire, Advocate, for Respondent

CORAM : R.K.Deshpande, J.
DATED : 15th JUNE, 2015.

P.C.

This civil application is for condonation of delay of about 5 years in filing the second appeal. The trial Court dismissed the suit for specific performance of contract. The appellate Court has dismissed the appeal. Hence, the plaintiff is before this Court in this second appeal.

Though the suit was filed by the father of the plaintiff, the names of the appellants who are the legal heirs were brought on record before the lower appellate Court. The lawyer was engaged. The matter was argued and the appeal was dismissed on 24.02.2004. There is no averment in the application that the counsel appearing for the appellants did not inform the fact of dismissal of the appeal to the appellants. The averment is that in January, 2008, for the first time the appellants came to know of the decision by the lower appellate Court. An application for certified copy was filed in May,

2008 i.e. after a period of 5 months from the date of the knowledge. There is no satisfactory explanation for condonation of delay of 5 years made out. The application is dismissed.

(R.K.DESHPANDE, J.)

Rvjalit